HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A No.4642 of 2004
Date of decision : 20.02.2007

Rashpal Singh .....Appellant

versus

Bawa Harinder Singh and another .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Vikas Chathrath, Advocate for the appellant.
Mr.Vikas Jain, Advocate for the respondent.

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ORDER

HEMANT GUPTA, J.

The defendant is in second appeal aggrieved against the judgment and decree passed by the Courts below whereby a decree for recovery of Rs.8,84,000/- alongwith interest @ 12% per annum from the date of filing of the suit till the date of decree and with future interest @ 6% per annum from the date of decree till its realization, was granted in favour of the plaintiff and against the defendant-appellant.

The plaintiff has filed a suit for recovery of Rs.9,50,000/- as arrears of rent on the ground that House No.570, Sector-18, Chandigarh was let out to the defendant-appellant and one Vikas Kumar vide lease agreement dated 23.9.1998 on monthly rent of Rs.34000/-. Since the rent was not being paid regularly, the plaintiff filed eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 which was decided on 8.6.2001. The landlord sought eviction on the ground of non payment of rent, change of user and of subletting of the premises. A

statement was made by respondent Nos.2 & 3 therein before the learned Rent Controller that they will vacate the premises on or before 31.5.2001. It may be noticed that earlier the appellant put in appearance through Shri P.S.Bhullar, Advocate before the learned Rent Controller, but subsequently abstained from the proceedings.

After the premises was vacated, the plaintiff filed the present suit for recovery of arrears of rent from May, 1999 till June, 2001 when the premises was vacated. It was found that total arrears of rent recovered by the plaintiff is Rs.8,84,000/- after adjusting Rs.66,000/- deposited by the defendants as security.

Learned counsel for the appellant has vehemently argued that said Shri P.S.Bhullar, Advocate had put in appearance before the learned Rent Controller on the basis of memorandum of appearance and without any power of attorney. In fact, said appearance was unauthorized act on his behalf. However, the said argument is meaningless in a suit for recovery of arrears of rent. It is not disputed that the possession of the premises has been handed over to the landlord in June, 2001. Therefore, the appellant is liable to pay rent of the premises of which he was the tenant.

Another argument raised by learned counsel for the appellant is that the appellant has vacated the premises in December, 1998. However, learned counsel for the appellant could not refer to any document to show that the possession of the premises was delivered to the plaintiff. In the absence of any document of delivery of possession to the plaintiff, the said argument is meaningless. I do not find any illegality or irregularity in the finding recorded that the appellant is liable to pay the

rent before the physical possession of the premises was handed over to the plaintiff.

Another argument raised by learned counsel for the appellant is that the suit has been filed by the Attorney on the basis of General Power of Attorney of the year 1978, whereas, the property in dispute was purchased by the plaintiff on 3.6.1992. Therefore, on the basis of General Power of Attorney of the year 1978, the present suit could not have been filed. However, a perusal of the General Power of Attorney does not restrict the right of the Attorney in respect of any specific property, therefore, the attorney was competent to recover the arrears on behalf of his principal.

The findings of fact recorded by the Courts below are sought to be disputed by way of re-appreciation of evidence. I do not find that any substantial question of law arises for consideration of this Court in second appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

February 20, 2007
**mohinder*